IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6925 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BANSIDHAR A PARMAR - Petitioner(s)

Versus

B R BHARDWAJ & 5 - Respondent(s)

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Appearance :

MR CH VORA for Petitioner(s) : 1,
None for Respondent(s) : 1,3 - 4, 6,
MR PJ MALKAN for Respondent(s) : 1,
SERVED BY RPAD - (R) for Respondent(s) : 2,
MR BIPIN I MEHTA for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 16/01/2006

ORAL JUDGMENT

1. The petitioner has filed this petition under

Article 226 of the Constitution of India, praying for quashing and setting aside the impugned dismissal order dated 23.6.1998 passed by the Commandant, GC, SSB, Bhuj and confirmed by Divisional Organiser, in appeal on 5.8.1998.

2. The petition was admitted and rule was issued on 27.8.1998. However, no interim relief was granted. It is the case of the petitioner that the petitioner joined the services of the respondents in the year 1987. After joining the service he was subsequently transferred from one place to another place. It is also alleged by the petitioner that the petitioner was put in solitary confinement for 7 days each on three occasions. The petitioner was shown as absent though the petitioner was on duty. It is also alleged that in contemplation of the disciplinary enquiry, the petitioner was issued suspension order dated 21.10.1997. The

petitioner was issued charge-sheet on 25.10.1997 on the ground that the petitioner remained absent from duty and that the petitioner assaulted his superior. The enquiry proceeded against the petitioner and the Inquiry Officer has submitted his report on the basis of which show cause notice was issued on 3.4.1998, calling upon the petitioner to show cause as to why the service of the petitioner should not be terminated. The petitioner made his representation on 7.4.1998 and after considering the said representation, the order was passed dismissing the petitioner from service.

3. Initially the petitioner has challenged the said order before the Central Administrative Tribunal. However, the Central Administrative Tribunal has no jurisdiction to entertain the said appeal and, therefore, the petitioner

preferred an appeal before the Divisional Organiser. The said appeal also came to be dismissed and as against the said dismissal order, the present petition is filed.

4. Mr.C.H.Vora, learned advocate appearing for the petitioner has submitted that the petitioner was made scapegoat in the respondent organisation and the petitioner was not responsible for the charges levelled against him. He has further submitted that the petitioner has not derived any benefit out of the charges levelled against him with regard to preparing false tour diary. He has further submitted that the appellate authority has not taken into consideration the various grounds raised by the petitioner. He has also submitted that the appellate authority has not addressed itself to the penalty and hence he has submitted that for the purpose of reducing

the quantum of penalty the matter should be remanded to appellate authority with a direction to denovo consider all the submissions or contentions of the petitioner and after proper application of mind fresh view can be taken in the matter.

5. No affidavit in reply has been filed on behalf of the respondent. No one is present on behalf of the respondent. However, looking to the serious charges levelled against the petitioner and considering the fact that the disciplinary authority as well as the appellate authority has taken consistent view, there is very little scope for this Court, while exercising jurisdiction under Article -227 of the Constitution of India to interfere in the matter. As far as first charge is concerned, the allegation against the petitioner has been proved and accepted by the appellate authority.

The petitioner has misbehaved and abused in an unparliamentary language and he gave struck blow on the face and stomach of Incharge Company Inspector / GD Mr.Hem Singh. The disciplinary authority has considered the said act as the act of grave indiscipline / misbehaviour / misconduct and disobedience of lawful order in the discharge of his duty in his capacity as a member of the Force (SSB) under Section 11(1) of CRPF Act, 1949. As far as second charge is concerned, the disciplinary authority has observed that the petitioner has submitted false tour diary for the period from 7.7.1997 to 17.7.1997 when NIP Camp was running at village Vadgam / Kothigram and forced Incharge Company Tharad Inspector / GD – Hem Singh to approve his false tour diary. In fact, he was absent from duty with effect from 7.7.1997 to 12.7.1997 and did not visit NIP Camp and hence committed disobedience of lawful

orders, neglect of duty / misconduct in the discharge of his duty in his capacity as a matter of the Force (SSB) under Section 11(1) of CRPF Act, 1949, and considering these two charges, the disciplinary authority has taken a view that the petitioner had made assault to superior and committed various offences and also submitted the diary of false tour for the period as mentioned in the order. The said charges have been proved during the course of inquiry and hence the disciplinary authority has confirmed the provisional penalty of dismissal imposed upon the petitioner in show cause notice and dismissed the petitioner from service with effect from 23.6.1998.

6. The appellate authority, thereafter, considered grounds raised by the petitioner in the appeal before him and after discussing each grounds the appellate authority has come

to the conclusion that the petitioner has been dismissed from service after following proper departmental inquiry and thus the appellate authority dismissed the appeal being no merit in the said appeal.

7. Looking to the seriousness of the charges levelled against the petitioner and proved during the course of inquiry, the Court see no merit or substance in the matter and it should not be remanded even for the purpose of determining quantum of penalty. The petition is, therefore, dismissed. Rule is discharged without any order as to costs.

(K. A. PUJ, J.)

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